TABLE OF CONTENTS

TABLE OF CONTENTS
IAB # SH2336880

Exhibits (Volume 2)

A – Homicide investigation book 013-09063-2664-013

B – One envelope containing 1 CD, of audio captured by Sergeant [redacted] during the search warrant service.

C – Los Angeles County District Attorney's Office, Letter of Opinion

D – Crime Lab Sketch, and sketches used during IAB interviews

E – Search Warrant Preparation Check List, 013-09063-2664-013 Methamphetamine Search Warrant

F – Search Warrant Operations Plan, Palmdale Station Crew, 06/27/13 File number 013-09063-2664-013

G – Yellow envelope containing 4 cd's and MP5 training rosters (APIS) CD's contain; Narcotics Bureau pre-search and post search video, Lieutenant Stillwell's in and out videos, and Sergeant [redacted] audio recording of incident.

H – Yellow envelope containing 3 cd's of Homicide Bureau interviews, Radio traffic after the shooting and Crime lab Photographs

Miscellaneous Documents

- Letter of Opinion on Deputy Involved Shooting, Chief William McSweeney to Sheriff Leroy D. Baca
- Narcotics Burea Order #2-11
- Firearms inquiry printout for Suspect Mallory
- Signed, Admonitions Subject and Witness Forms

OFFICER INVOLVED SHOOTING FORM

Los Angeles County Sheriff's Department

Officer Involved Shooting

Report Date: 06/27/2013	Bureau/Station/Facility: Detective Division / Narco	Admin. Invest.? ☐	Hit? ☒

Incident Information

URN: 013-09063-2664-013	Date: 06/27/2013 Time: 0705
City or Station: Palmdale Station	Nature of Incident: Palmdale Station Narcotics was serving a search warrant at the location when Sergeant John Bones encountered an armed individual who pointed a handgun at him. Sergeant Bones fearing for his safety shot the suspect who died on scene.
Location: [redacted] 117th Street East Little Rock, CA 93543	

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, **(Residence)** (circled), Rural, School, Street, Other: ______

Lighting (*circle only one*): Darkness, **(Daylight)** (circled), Other, Street Lights

Weather (*circle only one*): **(Clear)** (circled), Cloudy, Fog, Rain

Distance: approx. 3 - 4 feet

Incident Type (*circle one or more*): Accidental, **(Armed Person)** (circled), Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, **(Warrant Service)** (circled), Other: ______

Initiated by (*circle only one*): Arrest Warrant, Call, Observation, One Person Unit, Other, **(Search Warrant)** (circled), Two Person Unit

Prior Activity (*circle only one*): **(Detective)** (circled), Inmate Transport, Other, Routine Patrol

Total # of Shots Fired by Deputy: 6

Total # of Shots Fired by Suspect: 0

Aero Unit? ☐ Canine Unit? ☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	Mittelbrun	Robert		EM PM **(Day)**	**(Regular)** Overtime Off Duty
[redacted]	Hobbs	Patrick		EM PM **(Day)**	**(Regular)** Overtime Off Duty
[redacted]	Sirroonian	Jeffrey		EM PM **(Day)**	**(Regular)** Overtime Off Duty

Non-Employee Witnesses

Last Name: [redacted]	First Name: [redacted]	M.I. [redacted]	
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph: unk / Home Ph: [redacted]
Last Name: [redacted]	First Name: [redacted]	M.I. [redacted]	
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph: unk / Home Ph: [redacted]
Last Name: [redacted]	First Name: [redacted]	M.I. [redacted]	
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph: Unk / Home Ph: Unk

Supervisors

Employee #	Last Name	First Name	M.I	(*circle one or more*)
[redacted]	Stillwell	Dustin		On Duty, **(Present during shooting)**, Witness to shooting, Involved in shooting
				On Duty, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
	N/A		

Watch Commander

Employee #	Last Name	First Name	M.I.
	N/A		

PSTD Use Only

SH # 2336880

Officer Involved Shooting

URN: 013-09063-2664-013

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
06/27/2013	1010	06/11/2014	01/08/2014

Employee #	Last Name	First Name	M.I
[redacted]	Mannion	Patrick	J.
[redacted]	Reyes	Mark	

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S-1	E-1	FH	SR	22			NN	
E-1	S-1	FO	HK	9	Y	Y	DH	CH
E-1	S-1	FO	HK	9	Y	Y	DH	CH
E-1	S-1	FO	HK	9	Y	Y	DH	CH
E-1	S-1	FO	HK	9	Y	Y	DH	CH
E-1	S-1	FO	HK	9	Y	Y	DH	AD
E-1	S-1	FO	HK	9	Y	Y	DH	AR

Officer Involved Shooting
Involved Employee Information

URN: 013-09063-2664-013

Involved Employee

E 1

Employee [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Sex: M Race: W	Rank Sergeant	Unit Assignment: Narcotics	Work Assignment (Unit #, Module, etc.): Palmdale Narcotics
ShiftTime (*circle only one*): EM PM (Day)	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting: 7 / Age: 46 Height: 603	Duty Time (hrs): 0600-1600 / Weight: 215	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest)	Other Factors: Narcotics search warrant entry uniform with tactical vest worn. See pictures in case file.
Range Qualification Date: 06/25/2013	PPC Qualification Date: 06/25/2013	Laser Training Date:	
Certified with Weapon Used? ☒	Patrol Certification? ☒	Certification Unit: Firestone	Prior Shootings? [redacted] Number of Prior Shootings: 3
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.

E___

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting: / Age: Height:	Duty Time (hrs): / Weight:	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E___

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting: / Age: Height:	Duty Time (hrs): / Weight:	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting
Suspect Information

URN: 013-09063-2664-013

Suspect Information

S 1

Last Name: Mallory		First Name: Eugene	M.I.
AKA Last Name		First Name	M.I.
Sex: M Race: W	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone: N/A	Home Phone: [redacted]	Social Security #:	Driver's License #: K0244439
Age: 80 D.O.B. 05/27/33	Height: 602 Weight: 198	FBI #: N/A	CII #: N/A
Booking #: N/A	Primary Charge: Assault with a Deadly Weapon - 245 (d)(1) PC	Secondary Charge:	
Coroner Case? ☒	Coroner Case #: 2013-04556	Intoxication/Drug Usage [redacted]	Substance Used:
Armed? ☒	Apprehended? ☐	Mental Illness [redacted]	Criminal History [redacted]
Vehicle Make: N/A		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

See Other Side

SUPPLEMENTAL NON-EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department

Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	unk	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	unk	[redacted]

SUPPLEMENTAL EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department

Employee Witnesses

Last Name	First Name	M.I.	Street Address	Zip Code	Work Ph	Home Ph
Grimes[redacted]	Nathan		501 W. Lancaster Blvd.	93534	661-948-8466	N/A
[redacted]	[redacted]		11515 S. Colima Road	90604	562-946-7590	N/A
[redacted]	[redacted]		4850 Civic Center Way	90022	323-981-5300	N/A
Smith [redacted]	Bridgette		4850 Civic Center Way	90022	323-981-5300	N/A
Bertieri[redacted]	Alfonso		4850 Civic Center Way	90022	323-981-5300	N/A
[redacted]	[redacted]		4850 Civic Center Way	90022	323-981-5300	N/A
Raniag [redacted]	Kristoffer		4850 Civic Center Way	90022	323-981-5300	N/A

INVESTIGATIVE SUMMARY

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

UNIT: Narcotics Bureau (Palmdale Station)

DATE: June 27, 2013

TIME: 0705 Hours

LOCATION: [redacted] 117th Street East, Little Rock, CA 93543

URN#: 013-09063-2664-013

IAB#: SH2336880

SYNOPSIS

On June 27, 2013, members of the Palmdale and Lancaster Narcotics crew served a narcotics search warrant at the residence of Suspect Eugene Mallory. Assisting the narcotics crew were members from the Los Angeles County Sheriff's Department Parole Compliance Team. The warrant was obtained by Witness Deputy Patrick Hobbs [redacted] on June 25, 2013, regarding a possible clandestine methamphetamine lab being operated at the location (see Search Warrant in **Exhibit A**). During the service of the search warrant, Sergeant [redacted] was confronted by an armed Suspect Mallory, and fearing for his life, as well as his partner, Witness Detective Robert Mittelbrun, Sergeant [redacted] shot Suspect Mallory with his MP5. Suspect Mallory died on scene and no deputy personnel were injured. On January 8, 2014, the Los Angeles County District Attorney's Office concluded that Sergeant [redacted] acted lawfully in self-defense and in defense of Witness Mittelbrun (see **Exhibit C**).

INCIDENT

The above teams had arrived at the search warrant location at approximately 0711 hours, after a pre-search warrant briefing had been conducted at Palmdale Station. The entry team members consisted of Sergeant [redacted] Witness Sergeant Jeff Siroonian, Witness Detective Robert Mittelbrun, Witness Deputy Patrick Hobbs, Deputy [redacted] and Detective Nathan Grimes. Outside containment personnel consisted of Parole Compliance Team members (listed in **Exhibit A**) as well as Lieutenant Dustin Stillwell.

Prior to making entry into Suspect Mallory's residence, a verbal knock and notice was made (2:10 of **Exhibit B**) by both Witness Hobbs and Sergeant [redacted] with no response coming from inside the residence. The team made entry into the location with-out the

use of a pick or ram, due to the fact the front door was not locked. As the team moved through the location, Sergeant [redacted] and Witness Mittelbrun went east through the house, while Witness Siroonian, Witness Hobbs, Detective Grimes and Deputy [redacted] went north (see crime lab sketches in **Exhibit D**.) While they cleared the residence, numerous announcements of their presence were stridently made and can be clearly heard on Sergeant [redacted] audio recorder (**Exhibit B**).

Less than a minute after entering the residence, Sergeant [redacted] and Witness Mittelbrun came upon the bedroom of Suspect Mallory in the northeast corner of the residence. Sergeant [redacted] took a knee in the doorway of the room just south of Mallory's, while Witness Mittelbrun stood above and closely behind him. As Sergeant [redacted] looked into the room he could see what appeared to be somebody's (Suspect Mallory) legs and feet moving underneath the covers, on a bed. He was not sure what Suspect Mallory was doing but got the feeling that Suspect Mallory was "reaching, concealing, doing something that was not natural," so Sergeant [redacted] identified himself, telling Suspect Mallory to show his hands.

> **IAB Note:** At 3:01 of audio track 2 in **Exhibit B**, Sergeant [redacted] can be heard saying, "Sheriff's Department, we have a search warrant." He then says, "Come on out here, let me see your hands first please." A split second later, Sergeant [redacted] yells "Whoa!" and fires his weapon.

A second or two later, Suspect Mallory stood in the middle of the doorway holding a gun in his right hand. Sergeant [redacted] said the gun appeared to be pointed towards the ground, or at a 45 degree angle, and Suspect Mallory looked down at him and started to raise the gun that was in his right hand. Sergeant [redacted] said he saw the muzzle of the gun elevate towards his face and fearing for his life and the life of Witness Mittelbrun, who was behind him, fired his MP5 about six or seven times, striking Suspect Mallory. Suspect Mallory fell out of Sergeant [redacted] view back onto the bed inside the room.

> **IAB Note:** Witness Mittelbrun in his IAB interview and Homicide interview, stated that he saw only a portion of Suspect Mallory from his view point, where he (Mittelbrun) was standing behind Sergeant [redacted] He said he saw a handgun in Mallory's right hand and it was swinging up towards Sergeant [redacted] and himself.

Sergeant [redacted] called out to Suspect Mallory to establish some sort of verbal communication, but Suspect Mallory did not respond. Sergeant [redacted] peered into the room with Witness Hobbs and saw Suspect Mallory laying diagonally on the bed (head east, feet west). He could not see the gun at that point, but saw that Mallory was suffering from several gunshot wounds to his chest and was still breathing. Sergeant [redacted] entered the room with Witness Hobbs and Witness Mittelbrun, and saw the gun that Suspect Mallory had been holding, was still laying by Mallory's right hand. Sergeant [redacted] moved the gun to a shelf behind Mallory's bed so Mallory could not use it.

IAB Note: At 3:24 of **Exhibit B**, Sergeant [redacted] comments that he thought Suspect Mallory still had the gun in his hand to which Witness Hobbs can be heard responding, "Looks like, is that it right there?" Witness Hobbs in his Internal Affairs Bureau interview stated that Suspect Mallory was still holding a black semi-automatic handgun in his right hand when they [redacted] Hobbs and Mittelbrun) entered the room. Witness Hobbs said Sergeant [redacted] removed the gun from Mallory's hand.

Sergeant [redacted] put out radio traffic and requested [redacted] (Paramedics) with-in approximately thirty seconds of the first shots being fired, as heard in **Exhibit B**. While paramedics responded to the location, the search team cleared the remainder of the property, calling out additional individuals who were living in other various structures on the property (see **Exhibit A**).

Deputy [redacted] and Detective Grimes stated in their Homicide Bureau interviews that they heard verbal commands being given and then the shooting occurred (see **Exhibit A** for further).

This investigator, through the assistance of Narcotics Operations Lieutenant Christopher Bergner [redacted] obtained the following documents pertaining to this incident:

Exhibit E – Search Warrant Checklist prepared by Witness Hobbs

Exhibit F – Search Warrant Operations Plan

Exhibit G – Pre-search video, Post Search Video, In and out video by Lieutenant Stillwell, Audio of incident as recorded by Sergeant [redacted] audio recorder (also contained in **Exhibit B**). Training records (APIS roster) indicating Sergeant [redacted] attended MP-5 refresher training on June 25, 2013 and September 18, 2013. In addition, a training record (APIS roster) indicating Sergeant [redacted] attended a MP-5 refresher and night qualification on March 13, 2013.

In addition to the above Exhibits, this investigator obtained copies of audio interviews conducted by Homicide Bureau, radio traffic associated with the initial advisement that a shooting had occurred, and photographs taken by the Crime Lab (see **Exhibit H**).

INVOLVED PERSONNEL:

[redacted] – Sergeant [redacted]

Date of Employment: 09/14/1988
Date Assigned to Narcotics: [redacted]
Prior Shooting Incident(s): [redacted]

INVOLVED SUSPECT:

Mallory, Eugene
[redacted]

Sex:	Male
Race:	White
Date of Birth:	05/27/1933
Height:	602
Weight:	198
Charge:	245(d)(1) PC, Assault with a Deadly Weapon

Injury: The suspect sustained six gunshot wounds; three to his right chest, one to the left chest, one to the right upper arm and one to the right abdomen. A graze wound to the right thumb.

Suspect Mallory was pronounced deceased on scene at 0738 hours by Captain Wade (Engine #92) per communication with Doctor Deuson at Antelope Valley Hospital (see **Exhibit A**).

The Consolidated Criminal History System revealed no criminal history.

INVOLVED EMPLOYEE STATEMENT:

Sergeant [redacted]

Sergeant [redacted] was interviewed by Internal Affairs Bureau on March 12th, 2014, and was represented by Sergeant Howard Fuchs [redacted] His interview was consistent with the interview he gave Homicide Bureau Detectives the day of the incident.

Sergeant [redacted] stated that on June 27, 2013, he was the team leader of the narcotics crew that served a search warrant at [redacted] Street East in the city of Little Rock, regarding a methamphetamine lab. He said prior to the search warrant an operations briefing was conducted in the conference room at Palmdale Station. Sergeant [redacted] said the team was briefed on the possibility of a handgun (Ruger .22 caliber) being on the property, registered to a Eugene Mallory (Suspect Mallory).

> **IAB Note:** The Search Warrant Preparation Checklist associated with this warrant service indicated a weapon(s) was registered to the location, suspect or residence (see **Exhibit E**).

Sergeant [redacted] stated that Deputy Hobbs (Witness Hobbs) gathered the information (intelligence) regarding the possible methamphetamine lab and also wrote the warrant. [redacted] said he reviewed the warrant and the operations plan prepared by Witness Hobbs

and found them to be thorough.

Sergeant [redacted] said when they went to the search warrant location, the team lined up on the door of the residence. He said he was off to the right side of the door, covering a window, and believed he was the third person to enter the residence. Sergeant [redacted] said he was carrying his Department issued MP5 H & K submachine gun during the service of the warrant, carrying the weapon in the semi-automatic mode with 9mm rounds.

> **IAB Note:** The service of the search warrant was captured on Sergeant Bones' audio recorder. A copy of that recording is included in this case (see **Exhibit B**).

Sergeant [redacted] said when he entered the location; he went right (east), into a utility room/hallway, along with Witness Mittelbrun. He said he initially thought the utility area only went 15-20 feet, but that was not the case, and they ([redacted] and Mittelbrun) continued to clear the east portion of the residence, coming to a stop in the east/middle portion of the residence. Sergeant [redacted] said he communicated with the other team members verbally and by the use of his flashlight.

> **IAB Note:** Sergeant [redacted] using the sketch provided by the crime lab, drew the path he and Witness Mittelbrun took upon entering the residence. (see **Exhibit D**)

> **IAB Note:** Numerous verbal announcements can be heard on Sergeant Bones recorder by the entry team during the warrant service as they went through the house. (see **Exhibit B**)

Sergeant [redacted] said he was kneeling down in the doorway, and could see what appeared to be somebody's (Suspect Mallory) legs and feet moving underneath the covers, on a bed. He said he was not sure what Suspect Mallory was doing, but by the position of his feet, Suspect Mallory would have been crossways on the bed. Sergeant [redacted] said he got the feeling that Suspect Mallory was "reaching, concealing, doing something that was not natural," so Sergeant [redacted] identified himself, telling Suspect Mallory to show his hands.

> **IAB Note:** At 3:01 of audio track 2 in **Exhibit B**, Sergeant [redacted] can be heard saying, "Sheriff's Department, we have a search warrant." He then says, "Come on out here, let me see your hands first please." A split second later, Sergeant [redacted] yells "Whoa!" and fires his weapon.

Sergeant [redacted] said a second or two later, Suspect Mallory stood in the middle of the doorway holding a gun in his right hand. He said the gun appeared to be pointed towards the ground or at a 45 degree angle. He said Suspect Mallory looked down at him and started to raise the gun that was in his right hand. Sergeant [redacted] said he saw the muzzle of the gun elevate towards his face.

Sergeant [redacted] said he was in fear for his life and the life of Witness Mittelbrun, who was behind him, and fired his MP5 about six or seven times. After firing his rounds, Sergeant [redacted] said Suspect Mallory fell out of his view and onto the bed, inside the room. He said while he was shooting, he was aiming for "center mass" and did not know the effect his rounds had until Suspect Mallory fell out of his view. Sergeant [redacted] said he did not change his position during the shooting.

The audio portion of the shooting, as captured by Sergeant [redacted] audio recorder, was played during the interview. In reviewing the audio, six shots can be heard, with an approximate two second pause between the fifth and sixth rounds. Sergeant [redacted] said he remembered firing his last round but did not know what Mallory was doing at that point, but Mallory still posed a threat. He said from what he knows now, Mallory must not have been in his view because he did not think his last round struck Mallory.

Sergeant [redacted] said that after Suspect Mallory fell out of his view, he [redacted] called out to Mallory to establish some sort of verbal communication and ensure Mallory had discarded his gun so another shooting would not occur, and Mallory would get help (medical treatment). He said he received no response from Mallory.

> **IAB Note:** In reviewing the audio recording (**Exhibit B**), at the 3:14 mark, after the last round had been fired by Sergeant [redacted] Sergeant [redacted] can be heard yelling, "Drop the gun, Drop the gun!" Then at 3:24 Sergeant [redacted] comments that he thought Suspect Mallory still had the gun in his hand and tells Suspect Mallory to drop the gun. No audio response from Mallory can be heard.

Sergeant [redacted] said he peered into the room with Witness Hobbs and saw Suspect Mallory lying diagonally on the bed as depicted in the crime lab sketch (see **Exhibit D**). Sergeant [redacted] said he could not see the gun at that point and saw that Mallory was suffering from several gunshot wounds to his chest and was breathing. He said when he entered the room he saw Mallory's gun laying by his right hand. He said he moved around the bed to get to the weapon and put it on a shelf. Sergeant [redacted] said he moved the gun so Mallory could not use it. Sergeant [redacted] said when he moved the handgun, Suspect Mallory was on the bed, not moving, and was trying to breathe. He said he put out radio traffic and requested [redacted] (Paramedics). Sergeant [redacted] said there was no potential for a cross fire during the shooting and knew were his outside containment personnel were.

> **IAB Note:** Sergeant [redacted] referenced the Crime Lab sketch in **Exhibit D**, when pointing out where he placed Mallory's gun. He said the location he placed it, is marked "7" in the sketch.

> **IAB Note:** At 3:24 of **Exhibit B**, Sergeant [redacted] comments that he thought Suspect Mallory still had the gun in his hand to which Witness Hobbs can be heard responding, "Looks like, is that it right there?"

IAB Note: Witness Hobbs in his Internal Affairs Bureau interview stated that Suspect Mallory was still holding a black semi-automatic handgun in his right hand when they [redacted] Hobbs and Mittelbrun) entered the room. Witness Hobbs said Sergeant [redacted] removed the gun from Mallory's hand.

Sergeant [redacted] said he moved outside the house and contacted Lieutenant Stillwell, advising him of his plan to call out the remaining persons on the property to their (Sheriff Personnel) location. Sergeant [redacted] said he remained the team leader on the operation and that there were not enough personnel at that point for him to step out of the situation. He said someone (Sheriff personnel) was left with Suspect Mallory when the search team exited the house, but he did not know who it was.

IAB Note: The search location resided on a large residential dirt lot with other structures on the property as well. This included a trailer, mobile home, cars, a barn, and a "Conex" box where other people and property were residing. Sergeant [redacted] said it concerned him that there could be other weapons on the property.

Sergeant [redacted] said no methamphetamine lab was located at the location of the search warrant, but said there seemed to be a chemical odor of a "meth" lab. He said he had it on reasonable authority that someone went onto the property after the shooting (that night) and dug something up using lights and put it on a truck. He said he believed the things they smelled were on the property, but could not be located.

SWORN WITNESS STATEMENTS:

Deputy Robert Mittelbrun

Witness Mittelbrun was interviewed by Internal Affairs Bureau on March 18, 2014. He was represented by Mitch Kander from the Law Offices of Green and Shinee. Witness Mittelbrun's explanation of the events that transpired during the service of the search warrant was consistent with his interview with Homicide Bureau detectives the day of the shooting.

Witness Mittelbrun said he briefly assisted Witness Hobbs in gathering intelligence on the location where the search warrant was to be served. He said he drove to the location once with Witness Hobbs for scouting and reconnaissance purposes in regards to the layout of the property. He said a briefing was conducted the morning of the search warrant at Palmdale Station. He said in that briefing he believed he heard that there was a handgun registered to a person who lived on the property. He said he has served hundreds of search warrants and the Operations Plan (see **Exhibit F**) associated with this search warrant was thorough.

After arriving at the location and making entry into the residence, Witness Mittelbrun said

he went with Sergeant [redacted] into a "service area" to search it, and because it did not end, they continued north through the residence. They came to a stop across from Suspect Mallory's bedroom, with Sergeant [redacted] taking a knee and Witness Mittelbrun standing behind him. Witness Mittelbrun said Sergeant [redacted] exchanged flashlights with Witness Hobbs (who was west of them in the hallway).

> **IAB Note:** "Exchanging flashlights" is a non-verbal form of communication used by search entry teams to alert members of their location.

At this point, Witness Mittelbrun said Sergeant [redacted] was communicating with someone (Suspect Mallory) in the bedroom telling them words to effect of "Sheriff's Department. Search Warrant, come out of the bed, let me see your hands." He stated that he saw only a portion of Suspect Mallory from his view point, where he (Mittelbrun) was standing behind Sergeant [redacted] He said he saw a handgun in Mallory's right hand and it was swinging up towards Sergeant [redacted] and himself.

Witness Mittelbrun said he remembered thinking to himself that Suspect Mallory was going to shoot at them, and because Sergeant [redacted] was kneeling in front of him, [redacted] would stand up. He said he was worried if Sergeant [redacted] stood up, he would shoot [redacted] in the head. Witness Mittelbrun said he did not shoot his weapon nor did he say anything to Suspect Mallory. He said Sergeant [redacted] stayed in the kneeling position when he [redacted] fired his weapon and near the end of Sergeant [redacted] shooting he saw Suspect Mallory fall back onto the bed.

After the shooting stopped, Witness Mittelbrun said they held their positions for a short time then went into the room where Suspect Mallory was, with Sergeant [redacted] and Witness Hobbs. He said when he went into the room he saw that Suspect Mallory was injured (blood on his chest) and was still breathing. He said when he entered the room he went to the southeast corner to make sure there were no other threats and then he saw Suspect Mallory's gun on the headboard of the bed. He said he assumed Sergeant [redacted] moved the gun based on the fact he heard Sergeant [redacted] tell Suspect Mallory to drop the gun, but did not see this occur.

> **IAB Note:** Witness Mittelbrun's explanation of his movement into the room was facilitated by the use of the Crime Lab sketch in **Exhibit D**.

Witness Mittelbrun said Sergeant [redacted] put out radio traffic indicating a shooting had occurred and requested that rescue respond. He said they exited the house and continued the search of the remainder of the property. He said someone was assigned to stay with Suspect Mallory, but did not remember who.

Sergeant Jeffrey Siroonian

Witness Siroonian was interviewed by Internal Affairs Bureau on March 12, 2014. He

was afforded the opportunity to have a representative with him during the interview, but declined one. Witness Siroonian's explanation of the events that transpired during the service of the search warrant was consistent with his interview with Homicide Bureau detectives the day of the shooting.

Witness Siroonian said that on the day of this incident a briefing was conducted prior to going to the search warrant location. The briefing was conducted at Palmdale Station by Witness Deputy Patrick Hobbs, who did a breakdown on the property, the investigation and the approach and tactics that would be employed during the service of the warrant. Sergeant Siroonian said he was unaware if weapons were on the property listed in the search warrant, and did not recall that being a topic in the briefing.

> **IAB Note:** The Search Warrant Preparation Check List provided to this investigator by Narcotics Bureau indicated that the Automated Firearm System was checked by Deputy Hobbs on June 25, 2013. The box that stated, "Weapons registered to loc, susp, or resident?" is circled "yes." This box was circled "yes" on page one of Search Warrant Preparation Check List for Suspect Mallory,Tonya Pate, and Adrian Lopez. (see **Exhibit E**)

After arriving at the location and making entry into the residence, Witness Siroonian said they went north into the kitchen area of the residence with Detective Grimes and Deputy [redacted] He said he did not remember were Witness Hobbs was. He said Sergeant [redacted] and Witness Mittelbrun went east once entry was made and he lost sight of them as they [redacted] Mittelbrun) neared the south-east portion of the residence. Witness Siroonian said although they lost sight of each other, knock and notice commands were still being given. They could clearly hear each other and were still communicating and using flashlights.

> **IAB Note:** Witness Siroonian's description of how entry was made into the location and his position when the shooting occurred was aided by a sketch of the location provided by the crime lab (see **Exhibit D**). During his interview he marked the sketch to show key locations.

Witness Siroonian said he was west of Sergeant [redacted] when the shooting occurred (see **Exhibit D**). He said prior to this he could clearly hear Sergeant [redacted] giving commands (to Suspect Mallory) and he knew exactly where Sergeant [redacted] was. He said there was a sheer drape; covering the doorway into Suspect Mallory's room and he (Siroonian) could not see into the room. He said he could clearly hear Sergeant [redacted] making "knock and notice announcements" through the drape to somebody inside the room, and remembered hearing "Sheriff's Department. Let me see your hands."

> **IAB Note:** Witness Siroonian said looking at the drape after the shooting; he noticed he could see through it and into the bedroom, but also said he did not remember if it was still up when he went into Mallory's room. Witness Mittelbrun, who was standing behind Sergeant [redacted] during the

shooting, stated his view was unobstructed into the room where Suspect Mallory was at, and did not remember any kind of sheet or curtain on the door. Witness Hobbs said he went into the room after the shooting and said nothing was covering the door. Sergeant [redacted] said he did not remember a curtain covering the door into Suspect Mallory's room, but said if there was, it must have been at "least partially open," because he could clearly see Suspect Mallory's feet moving around on the bed.

IAB Note: In reviewing the photographs of the scene taken by the Crime Lab, some of which focus particularly in the area of the door jamb into and out of Suspect Mallory's bedroom, there is no indication a curtain had been hung to cover the door; no curtain rod can be seen, no holes in wall indicating a curtain rod had been hung, no nails or nail holes indicating a curtain or sheet had been hung, and cobwebs can clearly be seen extending across the corners of the door jambs which would indicate that a sheet/curtain had not been moving through the door frame due to normal movement.

IAB Note: This investigator spoke to Detective Frank Salerno [redacted] of the Sheriff's Homicide Bureau on June 10, 2014, via telephone, to inquire if he was aware of any information regarding a possible curtain in the doorway. He said he had no knowledge of any information regarding this.

Witness Siroonian said he could not see into the room, where Suspect Mallory was at and did not have the visual vantage point that Sergeant [redacted] had. He said he heard two or three sets of verbal commands being given by Sergeant [redacted] then he heard gun shots. He said afterwards he listened for Sergeant [redacted] and that everyone was alright, and then cleared the west side living room with Detective Grimes and Deputy [redacted] They then moved to the area where Sergeant [redacted] was at.

Witness Siroonian said he went into Suspect Mallory's bedroom, and saw an elderly man lying on his back, on the bed, with a gun in his right hand. He said Sergeant [redacted] removed the gun from Suspect Mallory's hand and was also "working" the radio. He said Suspect Mallory was bleeding from his chest area and his breathing was exaggerated. He said they left the room, leaving behind a detective, and cleared the remainder of the property.

Deputy Patrick Hobbs

Witness Hobbs was interviewed by Internal Affairs Bureau on March 18, 2014. He was represented by Mitch Kander from the Law Offices of Green and Shinee. Witness Hobbs's explanation of the events that transpired during the service of the search warrant was consistent with his interview with Homicide Bureau detectives the day of the shooting. Witness Hobbs said he authored a Search Warrant (**Exhibit A**), a Search Warrant Preparation Checklist, and a Search Warrant Operations Plan as part of this incident (see **Exhibits E and F**).

Witness Hobbs said he received information from a confidential informant that a clandestine methamphetamine lab was on Suspect Mallory's property. In addition to information received from his informant, Witness Hobbs said he did surveillance on the property on several occasions, and on one of those occasions he smelled a chemical odor which was indicative of a methamphetamine lab.

Witness Hobbs said he prepared a Search Warrant Preparation Checklist as part of writing the search warrant (see **Exhibit E**). During this process he said he discovered that two handguns, both Ruger .22 caliber, were registered to Suspect Mallory. He said because of this, the warrant fell into the moderate risk category. Witness Hobbs said the checklist was reviewed by Sergeant [redacted] and Lieutenant Stillwell, who he said concurred this, was a moderate risk warrant service.

> **IAB Note:** A JDIC firearm inquiry conducted by this investigator showed that Suspect Mallory had two Sturm Ruger handguns registered to him (see printout in **Miscellaneous documents**).

On the day of the shooting, Witness Hobbs said a briefing was held at Palmdale Station and all parties who participated in the warrant service were present. He said he briefed personnel regarding the possibility of handguns being at the residence and had a diagram map of ingress and egress to the location. In addition, he said he had aerial photographs of the location as well.

Witness Hobbs said when they arrived at the search warrant location; he lined up number one on the door and made the "knock and notice." He said when he knocked on the door; the door was slightly ajar and swung open. He said no pick or ram was needed. He said he made entry into the location, going north, and stopping near the living room and continued to make announcements of their presence. He said Sergeant [redacted] and Witness Mittelbrun went east down a corridor and he could hear Sergeant [redacted] making announcements as well. With the aid of a sketch provided by the Crime Lab (**Exhibit D**), Witness Hobbs drew his path through the residence.

Witness Hobbs said he eventually looked east down the hallway and saw Sergeant [redacted] in the doorway of the room south of Suspect Mallory's room. He said he could see Sergeant [redacted] arm and the muzzle of his gun pointed towards Suspect Mallory's room. He communicated with Sergeant [redacted] by the use of his flashlight and heard [redacted] say it was okay to move up towards them. He said he heard Sergeant [redacted] give a command to someone to show their hands, and then he heard several gunshots.

Witness Hobbs said after the shooting, Sergeant [redacted] stood up, and they [redacted] Mittelbrun, Hobbs) made entry into Suspect Mallory's room. He said he saw Suspect Mallory lying on the bed with several bullet holes in his chest area, and was holding a black semi-automatic pistol in his right hand. He said Sergeant [redacted] removed the gun from Suspect Mallory's hand and placed it on the headboard of the bed. Witness Hobbs said Suspect Mallory was gasping for air and Sergeant [redacted] put out radio traffic,

including a request for paramedics.

Witness Hobbs said the remainder of the property, including other structures, needed to be searched. He said they exited the property and a Deputy Sheriff, whom he recalled as being Deputy [redacted] was left with Suspect Mallory. He said Deputy [redacted] was not part of the entry team, and was on outer containment.

> **IAB Note:** Witness Hobbs was asked if Suspect Mallory was still breathing when he left the room. Witness Hobbs said, "I don't recall him breathing. No."

Witness Hobbs said he heard no response from anyone when Sergeant [redacted] gave his commands to show their hands and could not see what Sergeant [redacted] was shooting at. He said the lighting in the hallway where he was at, was pretty dim, but he could see without his flashlight.

CIVILIAN WITNESS' STATEMENTS:

No civilians witnessed the shooting; however, there were other occupants on the property during the shooting. See Exhibit "A" pages 22-26 for their statements.

SUSPECT STATEMENT:

Eugene Mallory

None - Deceased

SUSPECT INJURIES:

Suspect Mallory sustained six gunshot wounds; three to his right chest, one to the left chest, one to the right upper arm and one to the right abdomen. A graze wound to the right thumb.

DEPUTY PERSONNEL INJURIES:

None

PHYSICAL EVIDENCE:

See Exhibit "A," pages 56-61

INVESTIGATORS OBSERVATIONS:

A walk through of the structure where the shooting occurred was given by Homicide Bureau Lieutenant David Dolsin. The residence resides on a large plot of desert type land with other structures on the property.

WEAPONS USED BY INVOLVED PERSONNEL:

H&K, MP-5, sub machinegun
Serial [redacted]
9mm

WEAPONS USED BY SUBJECT:

Sturm Ruger, long rifle handgun
Serial [redacted]
22 caliber
(Registered to the deceased)

PROPERTY DAMAGE:

None

WEATHER AND LIGHTING CONDITIONS:

Morning light/sunny



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
SHARON J. MATSUMOTO • Chief Deputy District Attorney
JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN • Director

January 8, 2014

Captain Duane Harris
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File #13-0462
L.A.S.D. File #013-09063-2664-013

Dear Captain Harris:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 27, 2013, fatal shooting of Eugene Mallory, by Los Angeles County Sheriff's (LASD) Sergeant [redacted] We have determined that Sergeant [redacted] acted lawfully in self-defense and defense of others.

The District Attorney Command Center was notified of this shooting at 8:40 a.m., on June 27, 2013. The District Attorney Response Team (DART), consisting of Deputy District Attorney Shannon Presby and District Attorney Senior Investigator Regina Crenshaw responded to the scene. They were given a briefing of the circumstances surrounding the incident and a "walk-through" of the shooting scene.

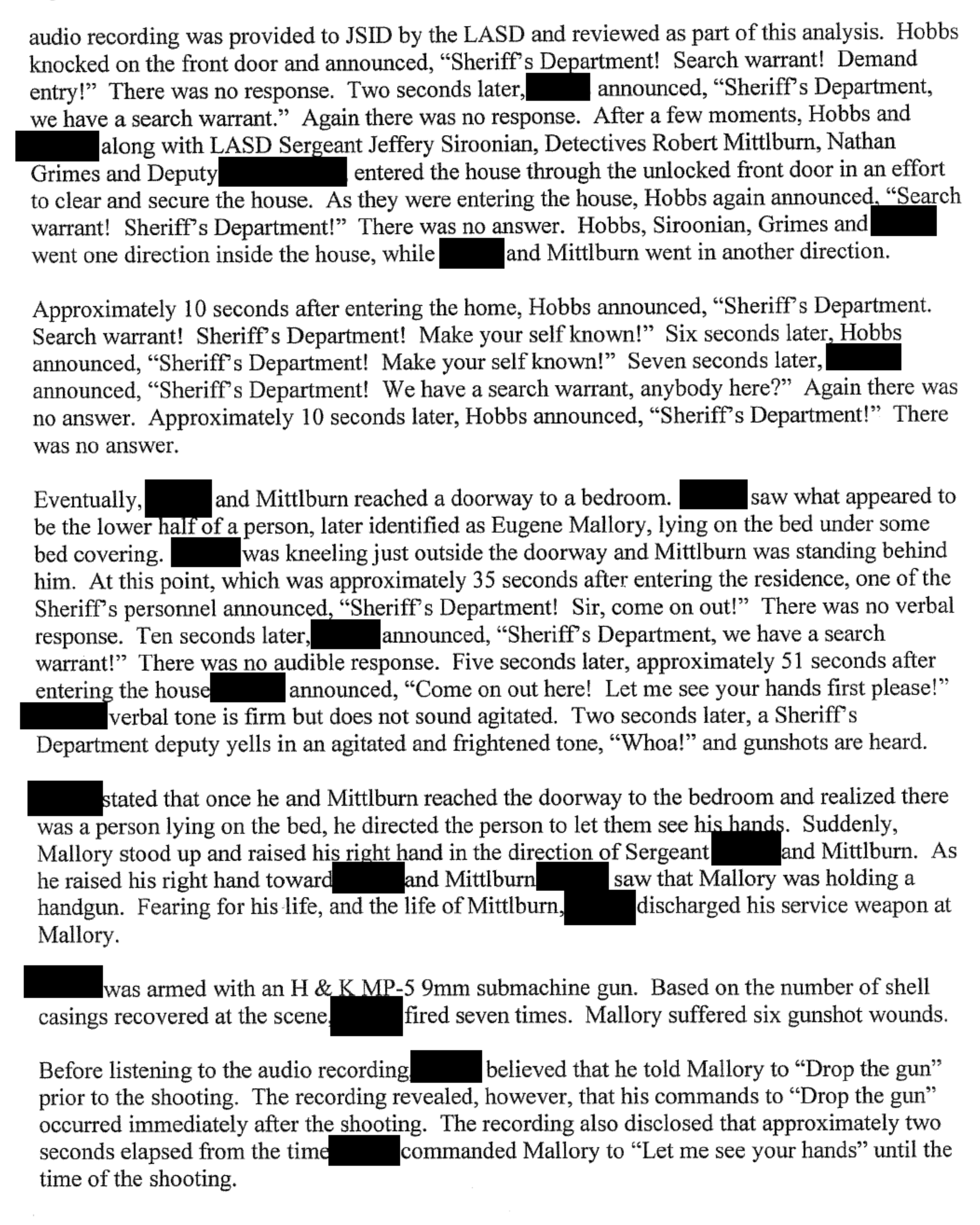
The following analysis is based upon investigative reports, analyzed evidence reports and witness statements taken during the investigation by the LASD and submitted to this office by detectives from LASD Homicide Division. No compelled statements were considered for purposes of this analysis.

FACTUAL ANALYSIS

On June 27, 2013, members of the LASD Lancaster and Palmdale narcotics teams served a search warrant at [redacted] Street East, Littlerock, California. This location is situated in a rural desert area of eastern Los Angeles County. The property searched consists of a main house and several smaller structures, including a barn, trailers, and storage containers.

Shortly after 7:00 a.m., Sergeant [redacted] and Detective Patrick Hobbs approached the front door of the main house. [redacted] was audio recording the execution of the search warrant. That

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audio recording was provided to JSID by the LASD and reviewed as part of this analysis. Hobbs knocked on the front door and announced, "Sheriff's Department! Search warrant! Demand entry!" There was no response. Two seconds later, [redacted] announced, "Sheriff's Department, we have a search warrant." Again there was no response. After a few moments, Hobbs and [redacted] along with LASD Sergeant Jeffery Siroonian, Detectives Robert Mittlburn, Nathan Grimes and Deputy [redacted] entered the house through the unlocked front door in an effort to clear and secure the house. As they were entering the house, Hobbs again announced, "Search warrant! Sheriff's Department!" There was no answer. Hobbs, Siroonian, Grimes and [redacted] went one direction inside the house, while [redacted] and Mittlburn went in another direction.

Approximately 10 seconds after entering the home, Hobbs announced, "Sheriff's Department. Search warrant! Sheriff's Department! Make your self known!" Six seconds later, Hobbs announced, "Sheriff's Department! Make your self known!" Seven seconds later, [redacted] announced, "Sheriff's Department! We have a search warrant, anybody here?" Again there was no answer. Approximately 10 seconds later, Hobbs announced, "Sheriff's Department!" There was no answer.

Eventually, [redacted] and Mittlburn reached a doorway to a bedroom. [redacted] saw what appeared to be the lower half of a person, later identified as Eugene Mallory, lying on the bed under some bed covering. [redacted] was kneeling just outside the doorway and Mittlburn was standing behind him. At this point, which was approximately 35 seconds after entering the residence, one of the Sheriff's personnel announced, "Sheriff's Department! Sir, come on out!" There was no verbal response. Ten seconds later, [redacted] announced, "Sheriff's Department, we have a search warrant!" There was no audible response. Five seconds later, approximately 51 seconds after entering the house [redacted] announced, "Come on out here! Let me see your hands first please!" [redacted] verbal tone is firm but does not sound agitated. Two seconds later, a Sheriff's Department deputy yells in an agitated and frightened tone, "Whoa!" and gunshots are heard.

[redacted] stated that once he and Mittlburn reached the doorway to the bedroom and realized there was a person lying on the bed, he directed the person to let them see his hands. Suddenly, Mallory stood up and raised his right hand in the direction of Sergeant [redacted] and Mittlburn. As he raised his right hand toward [redacted] and Mittlburn [redacted] saw that Mallory was holding a handgun. Fearing for his life, and the life of Mittlburn, [redacted] discharged his service weapon at Mallory.

[redacted] was armed with an H & K MP-5 9mm submachine gun. Based on the number of shell casings recovered at the scene [redacted] fired seven times. Mallory suffered six gunshot wounds.

Before listening to the audio recording [redacted] believed that he told Mallory to "Drop the gun" prior to the shooting. The recording revealed, however, that his commands to "Drop the gun" occurred immediately after the shooting. The recording also disclosed that approximately two seconds elapsed from the time [redacted] commanded Mallory to "Let me see your hands" until the time of the shooting.

Mittlburn stated that when he and [redacted] reached the doorway, [redacted] kneeled down and Mittlburn stood behind him. [redacted] announced, "Sheriff's Department. Search Warrant. Make yourself known." Looking into the bedroom, Mittlburn saw a blanket moving on top of a bed in the bedroom. [redacted] stated, "Let me see your hands, come out." Mittlburn saw the right side of Mallory's body, now standing, and saw that Mallory had a handgun in his right hand. Mallory extended his right hand in the direction of [redacted] and Mittlburn. Mittlburn stated that he thought Mallory was going to kill either [redacted] or him, but could not safely fire his weapon for fear that if [redacted] stood up, Mittlburn would shoot him in the back of the head. Mittlburn heard [redacted] fire his weapon between four and eight times and saw Mallory's feet come up as though he fell back onto the bed.

After the shooting, [redacted] and other members of the entry team entered the bedroom. Mallory was lying on the bed. A loaded Ruger .22 caliber semiautomatic handgun was located in Mallory's right hand. [redacted] removed the handgun from the bed, placed it on a shelf attached to the bed's headboard and summoned paramedics. Los Angeles County Fire Department personnel arrived and rendered emergency medical treatment. Mallory did not survive his injuries and was pronounced dead at the scene. Mallory was 80 years old at the time of his death.

On July 2, 2013, Deputy Medical Examiner Martina Kennedy performed an autopsy on Mallory's remains. The cause of death was determined to be multiple gunshot wounds.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense, or defense of another, if it reasonably appears that the person claiming the right of self-defense or defense of another, actually and reasonably believed that he, or the person protected, was in imminent danger of great bodily injury or death. *See*, Penal Code § 197; People v. Randle (2005) 35 Cal.4th 987, 994 (overruled on another ground in People v. Chun (2009) 45 Cal.4th 1172, 1201); People v. Humphrey (1996) 13 Cal.4th 1073, 1082.

In protecting himself, or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent imminent injury. CALCRIM No. 505.

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." People v. Collins (1961) 89 Cal.App.2d 575, 589.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight…The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about

the amount of force that is necessary in a particular situation." Graham v. Conner (1989) 490 U.S. 386, 396-397.

CONCLUSION

The evidence examined shows that Sergeant [redacted] was in the process of executing a search warrant. He and other members of the entry team repeatedly identified themselves as peace officers and ordered any occupants of the home to show themselves. Despite these repeated commands, Mallory did not verbally respond nor did he physically present himself. Instead, Mallory armed himself with a handgun and abruptly confronted [redacted] at the doorway to his bedroom. Despite [redacted] order to "Let me see your hands first please," Mallory pointed his loaded firearm at [redacted] and Mittlburn placing [redacted] in actual and reasonable fear of death. [redacted] acted to end the deadly threat.

We conclude that LASD Sergeant [redacted] acted lawfully in self-defense and in defense of Detective Mittlburn. We are closing our file and will take no further action in this matter.

Very truly yours,

JACKIE LACEY
District Attorney

By

SHANNON PRESBY
Assistant Head Deputy District Attorney
(213) 974-3888

c: [redacted]

761551N52A – SH-AD (11/90)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

OFFICE CORRESPONDENCE

DATE: August 7, 2014

FROM: RALPH J. WEBB, COMMANDER
EAST PATROL DIVISION

TO: JAMES WOLAK, CAPTAIN
NARCOTICS BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS

Case Number:	SH2336880
Incident:	On Duty Hit Shooting
Incident Date:	June 27,, 2013
Unit:	Narcotics Bureau
Suspects:	Mallory, Eugene MW 05/27/33
Involved Employee:	Deputy [redacted] #[redacted]
EFRC Date:	August 7, 2014

The Executive Force Review Committee (EFRC) consisting of Commanders David Halm, Ralph Webb, and Michael Parker met and reviewed the above case.

FINDINGS:

The EFRC determined the force used against the suspect was within Department policy. The EFRC also determined the tactics used were also within Department policy.

RECOMMENDATIONS:

The EFRC made no recommendations.

RJW:RFI:rfi